

Application No.: 10/058,173  
Preliminary Amendment Dated: October 30, 2006  
Reply to Final Office Action of: June 28, 2006

### **REMARKS**

Claims 46-61 and 70-76 are pending in the application. Applicants have canceled claims 62-69 without prejudice. Applicants have amended claims 46, 55 and 70. In view of the foregoing amendments and remarks urged here, Applicant respectfully requests that the Examiner reconsider all outstanding rejections.

#### ***Claim Rejections – 35 U.S.C. § 103***

The Examiner has rejected claims 46-61 and 70-76 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0065732 to Rodgers et al. (“Rodgers”) in view of U.S. Patent Application Publication No. 2002/0069263 to Sears et al. (“Sears”).

Applicants have amended claims 46, 55 and 70 to more particularly point out and distinctly claim the subject matter regarded as the invention. In particular, claim 46 has been amended to recite that the “summary information comprising promotional information associated with said demarked file.” Claim 55 has been amended to recite that the “summary information comprising promotional information associated with said demarked file.” Similarly, claim 70 has been amended to recite that the “summary information comprising promotional information associated with said demarked file.”

The present invention, as recited in amended claims 46, 55 and 70, is directed to a method of distributing software between handheld computer systems. A problem recognized by the inventors is the particular problem of distribution of software between handheld computer systems where the software files are small and not practical to be distributed by conventional distribution methods. The invention proposes a first user demarking software files for automatic transfer to other handheld computer systems. A second handheld computer system then receives summary information associated with the demarked software files so that the second user has the option of transferring the full software file through conventional means after viewing the summary information. Importantly, the summary information is promotional information associated with the software file (see Specification page 12).

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The Examiner's base reference, Rodgers, is fundamentally different. Rodgers is directed to a method of transferring content where licensing information is transferred along with the whole content. That is, a user does not have the option of not downloading the content based on the licensing information. There is additionally no teaching or suggestion in Rodgers for providing promotional information associated with the file to be transferred to the second handheld computer system automatically.

The shortcomings of Rodgers are not overcome by Sears. Sears is directed to a java implementation over a network of mobile communication devices. Sears does not teach or suggest providing promotional information associated with the file to be transferred to the second handheld computer system automatically.

Applicants respectfully submit that a combination of Rodgers and Sears does not render the present invention unpatentable. The prior art reference (or references) must teach or suggest all of the claim limitations. In re Vaeck, 947 F.2d 488 (Fed. Cir. 1991). Since a prima facie case of obviousness has not been set forth, Applicant respectfully submits that independent claims 46, 55 and 70 are allowable over the cited references. Claims 47-54, 56-61 and 71-76, by their dependency on claims 46, 55 and 70 respectively, are similarly allowable. Early notice to that effect is earnestly solicited.

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***Conclusion***

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections. The Examiner is invited to telephone the undersigned representative if an interview might expedite allowance of this application.

Respectfully submitted,

BERRY & ASSOCIATES P.C.



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